



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

is to the first day of the next term of a court the time is to be calculated to the day appointed by law for the court to sit, and not to the day on which the court actually opens. Although such motions are viewed with great liberality, the notice must state in clear and unmistakable terms the names of the parties, the amount for which judgment will be asked, and the time and place at which the motion will be made.

RICHMOND TRACTION COMPANY V. WILLIAMS.—Decided at Richmond, January 14, 1904.—*Cardwell, J. Absent, Buchanan, J.*

1. STREET RAILWAYS—*Duty to passengers—Stopping points—Sudden starting.* It is the duty of a street railway company to use the utmost care and diligence for the safety of its passengers, and if, in pursuance of a city ordinance and the rules of the company, a car stops just before reaching a grade crossing with a steam railroad, and the company knows that passengers are in the habit of alighting at such point, it is the duty of the company to use due and proper care to see that no one is alighting at that point before again setting its car in motion.

2. STREET RAILWAYS—*Alighting—Negligence.* It is contributory negligence to attempt to alight from a street car while it is in motion; but where one has retained his seat until the car has stopped and then goes forward, and while in the act of alighting is thrown to the ground by the sudden starting of the car, he is not chargeable with contributory negligence.

3. INSTRUCTIONS—*Abstract propositions of law.* An instruction containing a mere abstract proposition of law is calculated to mislead the jury and should not be given.

4. INSTRUCTIONS—*Fully instructed.* It is not error to refuse instructions when the propositions of law embodied therein, though correct, are sufficiently covered by other instructions which have been given.

5. STREET RAILWAYS—*Negligence—Fact for jury—Verdicts.* Whether the employees of a street railway company have been negligent in the discharge of their duties toward a passenger, or the latter has been guilty of contributory negligence, are questions for the jury under proper instructions from the court, and their verdict will not be disturbed when this court cannot say that it is without evidence to support it, or is against the evidence.

WASHINGTON NATIONAL BUILDING AND LOAN ASSOCIATION V. WENDLING.—Decided at Richmond, January 14, 1904.—*Absent, Buchanan, J.*

1. USURY—*Amount of penalty to be recovered.* Under the laws of this state, a person paying more than the lawful rate of interest can only recover the excess over the lawful rate which he has paid within one year prior to the institution of his action therefor.

2. USURY—*Application of payments.* Where a usurious loan has been made by a building association to be returned in monthly instalments,

each of which embraces a part of the usurious charge, each monthly instalment paid by the borrower is to be treated as a separate and independent transaction, and if part of it be applied by the lender, with the consent of the borrower, to the usurious charge, the legality of the application cannot be challenged after the lapse of one year from the date of such payment.

SLAUGHTER V. DANNER.—Decided at Richmond, January 14, 1904.—*Harrison, J.* Absent, *Buchanan, J.*

1. PARTNERSHIP—*Settlements—Imperfect books.* A partner who has actively engaged in the management of the business of the firm, and in keeping a large and important part of its books, has the burden, in a suit brought by him for the settlement of the partnership accounts, of showing that his co-partner is indebted to him. If, on account of the confused and imperfect condition of the books, no reliable settlement can be made his bill should be dismissed.

2. EQUITY—*Partnership settlements—Issue out of chancery.* It is one of the peculiar functions of a court of equity to settle partnership accounts, and this court will not reverse the action of the trial court in refusing to order an issue out of chancery to make such settlement. The object of an issue out of chancery is to aid the court in arriving at a conclusion, and whether it is desirable or not rests in the sound discretion of the court.

SMITH AND OTHERS V. MOORE, TRUSTEE.—Decided at Richmond, January 14, 1904.—*Cardwell, J.* Absent, *Buchanan, J.*

1. APPEAL AND ERROR—*Amount in controversy—Separate decrees against devisees.* Where there are no assets in the hands of the personal representative of a debtor out of which to pay a debt against the decedent's estate, it is proper to decree against each of the legatees or devisees for his proportion of the debt. Such a decree is in effect a decree against the decedent's estate, and if the aggregate amount of such decrees exceeds the minimum jurisdictional sum of this court, an appeal lies to this court on behalf of such legatees or devisees.

2. EXECUTORS AND ADMINISTRATORS—*Ex parte settlements—Evidence—Presumptions.* The fact that the *ex parte* settlement of a personal representative shows the payment of certain debts against his decedent's estate, does not raise a presumption of the payment of all other debts of the decedent entitled to priority of satisfaction over those paid.

3. LACHES—*Delay in prosecuting suit.* Apparent tardiness in the prosecution of a claim against a decedent's estate, which may be accounted for by the number and character of the claims asserted, and a protracted litigation over one of them, does not amount to such inexcusable delay on the part of a creditor as would justify a court of equity in refusing to grant him relief in the absence of evidence that his claim has been paid.